



February 20, 2004

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## ENGROSSED SENATE BILL No. 251

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DIGEST OF SB 251 (Updated February 18, 2004 12:14 pm - DI 97)

**Citations Affected:** IC 5-10; IC 6-3; IC 6-3.1; IC 20-5; IC 21-2; IC 27-6; IC 27-8; IC 27-9; IC 27-13; noncode.

**Synopsis:** Health and property and casualty insurance. Provides for a school corporation employee health benefit pilot project. Allows certain employers to take a tax credit related to making a health benefit plan available to the employers' employees. Sets forth provisions allowing school corporations to enter into interlocal agreements to establish a cooperative risk management program to provide for coverage of certain risks of the school corporations. Allows an accident and sickness insurer, a health maintenance organization, and a limited service health maintenance organization to provide evidence of coverage in electronic or paper form. Specifies that an accident and sickness insurer, a health maintenance organization, and a limited service health maintenance organization will include in enrollment materials information on obtaining evidence of coverage.

**Effective:** Upon passage; July 1, 2004.

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(HOUSE SPONSORS — FRY, RIPLEY)

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January 8, 2004, read first time and referred to Committee on Health and Provider Services.

January 22, 2004, reported favorably — Do Pass.

January 27, 2004, read second time, amended, ordered engrossed.

January 28, 2004, engrossed.

February 2, 2004, read third time, passed. Yeas 49, nays 0.

#### HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 19, 2004, amended, reported — Do Pass.

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ES 251—LS 6935/DI 97+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 251

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10-8-2.8 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2004]: Sec. 2.8. (a) As used in this section, "pilot project" refers  
4 to the school corporation health benefit pilot project established by  
5 the state personnel department under subsection (d).

6 (b) As used in this section, "state employee health plan" means:

- 7 (1) the self-insurance program established by the state  
8 personnel department under section 7(b) of this chapter; or  
9 (2) a contract with a prepaid health care delivery plan entered  
10 into by the state personnel department under section 7(c) of  
11 this chapter.

12 (c) Notwithstanding any other provision of this chapter to the  
13 contrary, and notwithstanding IC 20-5-2-2(14), a school  
14 corporation may:

- 15 (1) apply to participate in the pilot project; and  
16 (2) if chosen by the department of insurance, participate in  
17 the pilot project.

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(d) The state personnel department, in cooperation with the department of insurance, shall develop and implement a school corporation health benefit pilot project. The pilot project:

(1) must enable ten (10) school corporations that:

(A) apply for participation in the project; and

(B) are chosen by the department of insurance;

to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan that covers active state employees and is chosen by the school corporation; and

(2) must be established not later than January 1, 2005.

(e) The pilot project must do the following:

(1) Specify participation requirements, including minimum participation and contribution requirements, and an application process for school corporations that wish to apply.

(2) Provide for the department of insurance to choose ten (10) eligible school corporations for participation in the project.

(3) Provide for enrollment of the active and retired employees of the participating school corporations in a state employee health plan not later than June 30, 2005.

(4) Provide for coverage of the active and retired employees of the participating school corporations under the state employee health plan until a date not earlier than June 30, 2010, and not later than December 31, 2010.

(5) Require the state personnel department to provide to the legislative council in an electronic format under IC 5-14-6:

(A) an annual report not later than July 1 of each year; and

(B) a final report, including aggregate information, not later than July 1, 2011;

concerning the effect of the participation in the state employee health plan by the active and retired employees of the school corporation employees, including the effect on premium rates, costs to the state and to the school corporations, and any other information determined relevant by the legislative council.

(6) Conclude insurance coverage not later than December 31, 2010.

(f) A school corporation that participates in the pilot project under this section shall provide for payment of the premium for the coverage as provided in section 2.6 of this chapter. The state shall not pay any part of the premium for the coverage. The administrator of the state employee health plan described in

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subsection (b)(1) shall not pay any part of the administrative cost or other costs of the coverage.

(g) The state personnel department may adopt rules under IC 4-22-2 to implement this section.

(h) This section expires December 31, 2011.

SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

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- (6) Subtract an amount equal to the lesser of:
- (A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or
  - (B) two thousand dollars (\$2,000).
- (7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.
- (8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.
- (9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).
- (10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.
- (11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.
- (12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.
- (13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.
- (14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not

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allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(20) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

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(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

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(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

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STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 3. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 25. Credit for Offering Health Benefit Plans**

**Sec. 1. This chapter applies to an employer that:**

- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

**Sec. 2. As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.**

**Sec. 3. As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the taxable year for which the taxpayer claims a credit under this chapter.**

**Sec. 4. As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.**

**Sec. 5. (a) As used in this chapter, "health benefit plan" means coverage for health care services provided under:**

- (1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of

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1 IC 27-1-5-1; or  
 2 (2) a contract with a health maintenance organization for  
 3 coverage of basic health care services under IC 27-13;  
 4 that satisfies the requirements of Section 125 of the Internal  
 5 Revenue Code.

6 (b) The term does not include the following:

- 7 (1) Accident only, credit, dental, vision, Medicare supplement,  
 8 long term care, or disability income insurance.
- 9 (2) Coverage issued as a supplement to liability insurance.
- 10 (3) Automobile medical payment insurance.
- 11 (4) A specified disease policy issued as an individual policy.
- 12 (5) A limited benefit health insurance policy issued as an  
 13 individual policy.
- 14 (6) A short term insurance plan that:  
 15 (A) may not be renewed; and  
 16 (B) has a duration of not more than six (6) months.
- 17 (7) A policy that provides a stipulated daily, weekly, or  
 18 monthly payment to an insured during hospital confinement,  
 19 without regard to the actual expense of the confinement.
- 20 (8) Worker's compensation or similar insurance.
- 21 (9) A student health insurance policy.

22 Sec. 6. As used in this chapter, "pass through entity" means:

- 23 (1) a corporation that is exempt from the adjusted gross  
 24 income tax under IC 6-3-2-2.8(2);
- 25 (2) a partnership;
- 26 (3) a limited liability company; or
- 27 (4) a limited liability partnership.

28 Sec. 7. As used in this chapter, "state tax liability" means a  
 29 taxpayer's total tax liability that is incurred under:

- 30 (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);
- 31 (2) IC 6-5.5 (financial institutions tax); and
- 32 (3) IC 27-1-18-2 (insurance premiums tax);

33 as computed after the application of the credits that under  
 34 IC 6-3.1-1-2 are to be applied before the credit provided by this  
 35 chapter.

36 Sec. 8. As used in this chapter, "taxpayer" means an individual  
 37 or entity that:

- 38 (1) has state tax liability; and
- 39 (2) employs at least ten (10) full-time employees who are  
 40 located in Indiana.

41 Sec. 9. (a) An eligible taxpayer that, after December 31, 2004,  
 42 makes health insurance available to the eligible taxpayer's

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employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

(1) An employee's participation in the health benefit plan is at the employee's election.

(2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

(b) The credit allowed under this chapter equals the lesser of:

(1) two thousand five hundred dollars (\$2,500); or

(2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

Sec. 10. (a) An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The

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1 taxpayer must submit to the department all information that the  
2 department determines is necessary to calculate the credit  
3 provided by this chapter and to determine the taxpayer's eligibility  
4 for the credit.

5 Sec. 14. (a) A taxpayer claiming a credit under this chapter shall  
6 continue to make health insurance available to the taxpayer's  
7 employees through a health benefit plan for at least twenty-four  
8 (24) consecutive months beginning on the day after the last day of  
9 the taxable year in which the taxpayer first offers the health benefit  
10 plan.

11 (b) If the taxpayer terminates the health benefit plan before the  
12 expiration of the period required under subsection (a), the  
13 taxpayer shall repay the department the amount of the credit  
14 received under section 9 of this chapter.

15 Sec. 15. (a) An employee of a taxpayer that claims a credit under  
16 this chapter shall include in the employee's state adjusted gross  
17 income (as defined in IC 6-3-1-3.5(a)) the employee's eligible  
18 benefits for:

19 (1) the first taxable year in which the taxpayer offers the  
20 health benefit plan; and

21 (2) the taxable year immediately following the first taxable  
22 year in which the taxpayer offers the health benefit plan.

23 An employee's eligible benefits are not included in the employee's  
24 state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the  
25 taxable years following the taxable year described in subdivision  
26 (2).

27 (b) A taxpayer that claims a credit under this chapter shall  
28 notify each of the taxpayer's employees of the amount included in  
29 the employee's state adjusted gross income (as defined in  
30 IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer  
31 provides the employee with the employee's W-2 federal income tax  
32 withholding statement for the taxable year.

33 SECTION 4. IC 20-5-2-2, AS AMENDED BY P.L.286-2001,  
34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 UPON PASSAGE]: Sec. 2. In carrying out the school purposes of each  
36 school corporation, its governing body acting on its behalf shall have  
37 the following specific powers:

38 (1) In the name of the school corporation, to sue and be sued and  
39 to enter into contracts in matters permitted by applicable law.

40 (2) To take charge of, manage, and conduct the educational affairs  
41 of the school corporation and to establish, locate, and provide the  
42 necessary schools, school libraries, other libraries where

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permitted by law, other buildings, facilities, property, and equipment therefor.

(2.5) To appropriate from the general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based upon the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) for the purpose of promoting the best interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by

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1 outright purchase for cash, or under conditional sales or purchase  
 2 money contracts providing for a security interest by the seller  
 3 until payment is made or by notes where such contract, security,  
 4 retention, or note is permitted by applicable law, by gift, by  
 5 devise, by loan, or by lease with or without option to purchase and  
 6 to repair, remodel, remove, relocate, and demolish such personal  
 7 property. All purchases and contracts delineated under the powers  
 8 given under subdivision (3) and this subdivision shall be subject  
 9 solely to applicable law relating to purchases and contracting by  
 10 municipal corporations in general and to the supervisory control  
 11 of agencies of the state as provided in section 3 of this chapter.

12 (5) To sell or exchange any of such real or personal property or  
 13 interest therein, which in the opinion of the governing body is not  
 14 necessary for school purposes, in accordance with IC 20-5-5, to  
 15 demolish or otherwise dispose of such property if, in the opinion  
 16 of the governing body, it is not necessary for school purposes and  
 17 is worthless, and to pay the expenses for such demolition or  
 18 disposition.

19 (6) To lease any school property for a rental which the governing  
 20 body deems reasonable or to permit the free use of school  
 21 property for:

22 (A) civic or public purposes; or

23 (B) the operation of a school age child care program for  
 24 children aged five (5) through fourteen (14) years that operates  
 25 before or after the school day, or both, and during periods  
 26 when school is not in session;

27 if the property is not needed for school purposes. Under this  
 28 subdivision, the governing body may enter into a long term lease  
 29 with a nonprofit corporation, community service organization, or  
 30 other governmental entity, if the corporation, organization, or  
 31 other governmental entity will use the property to be leased for  
 32 civic or public purposes or for a school age child care program.  
 33 However, if the property subject to a long term lease is being paid  
 34 for from money in the school corporation's debt service fund, then  
 35 all proceeds from the long term lease shall be deposited in that  
 36 school corporation's debt service fund so long as the property has  
 37 not been paid for. The governing body may, at its option, use the  
 38 procedure specified in IC 36-1-11-10 in leasing property under  
 39 this subdivision.

40 (7) To employ, contract for, and discharge superintendents,  
 41 supervisors, principals, teachers, librarians, athletic coaches  
 42 (whether or not they are otherwise employed by the school

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1 corporation and whether or not they are licensed under  
 2 IC 20-6.1-3), business managers, superintendents of buildings and  
 3 grounds, janitors, engineers, architects, physicians, dentists,  
 4 nurses, accountants, teacher aides performing noninstructional  
 5 duties, educational and other professional consultants, data  
 6 processing and computer service for school purposes, including  
 7 but not limited to the making of schedules, the keeping and  
 8 analyzing of grades and other student data, the keeping and  
 9 preparing of warrants, payroll, and similar data where approved  
 10 by the state board of accounts as provided below, and such other  
 11 personnel or services, all as the governing body considers  
 12 necessary for school purposes. To fix and pay the salaries and  
 13 compensation of such persons and such services. To classify such  
 14 persons or services and to adopt schedules of salaries or  
 15 compensation. To determine the number of such persons or the  
 16 amount of services thus employed or contracted for. To determine  
 17 the nature and extent of their duties. The compensation, terms of  
 18 employment, and discharge of teachers shall, however, be subject  
 19 to and governed by the laws relating to employment, contracting,  
 20 compensation, and discharge of teachers. The compensation,  
 21 terms of employment, and discharge of bus drivers shall be  
 22 subject to and shall be governed by any laws relating to  
 23 employment, contracting, compensation, and discharge of bus  
 24 drivers. The forms and procedures relating to the use of computer  
 25 and data processing equipment in handling the financial affairs of  
 26 such school corporation shall be submitted to the state board of  
 27 accounts for approval to the end that such services shall be used  
 28 by the school corporation when the governing body determines  
 29 that it is in the best interests of the school corporation while at the  
 30 same time providing reasonable accountability for the funds  
 31 expended.

32 (8) Notwithstanding the appropriation limitation in subdivision  
 33 (2.5), when the governing body by resolution deems a trip by an  
 34 employee of the school corporation or by a member of the  
 35 governing body to be in the interest of the school corporation,  
 36 including but not limited to attending meetings, conferences, or  
 37 examining equipment, buildings, and installation in other areas,  
 38 to permit such employee to be absent in connection with such trip  
 39 without any loss in pay and to refund to such employee or to such  
 40 member ~~his~~ reasonable hotel and board bills and necessary  
 41 transportation expenses. To pay teaching personnel for time spent  
 42 in sponsoring and working with school related trips or activities.

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(9) To transport children to and from school, when in the opinion of the governing body such transportation is necessary, including but not limited to considerations for the safety of such children and without regard to the distance they live from the school, such transportation to be otherwise in accordance with the laws applicable thereto.

(10) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to rent them to students, to participate in any textbook aid program, all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance, ~~or to~~ establish and maintain a program of self-insurance, ~~or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7,~~ relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance, ~~or to~~ establish and maintain a program of self-insurance, ~~or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7,~~ protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school

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1 contract, school or school related activity, including but not  
 2 limited to the purchase of insurance or the establishment and  
 3 maintenance of a self-insurance program protecting such persons  
 4 against false imprisonment, false arrest, libel, or slander for acts  
 5 committed in the course of their employment, protecting the  
 6 school corporation for fire and extended coverage and other  
 7 casualty risks to the extent of replacement cost, loss of use, and  
 8 other insurable risks relating to any property owned, leased, or  
 9 held by the school corporation. To:

10 (A) participate in a state employee health plan under  
 11 IC 5-10-8-6.6;

12 (B) purchase insurance; or

13 (C) establish and maintain a program of self-insurance;  
 14 to benefit school corporation employees, which may include  
 15 accident, sickness, health, or dental coverage, provided that any  
 16 plan of self-insurance shall include an aggregate stop-loss  
 17 provision.

18 (15) To make all applications, to enter into all contracts, and to  
 19 sign all documents necessary for the receipt of aid, money, or  
 20 property from the state government, the federal government, or  
 21 from any other source.

22 (16) To defend any member of the governing body or any  
 23 employee of the school corporation in any suit arising out of the  
 24 performance of ~~his~~ **the member's or employee's** duties for or  
 25 employment with, the school corporation, provided the governing  
 26 body by resolution determined that such action was taken in good  
 27 faith. To save any such member or employee harmless from any  
 28 liability, cost, or damage in connection therewith, including but  
 29 not limited to the payment of any legal fees, except where such  
 30 liability, cost, or damage is predicated on or arises out of the bad  
 31 faith of such member or employee, or is a claim or judgment  
 32 based on ~~his~~ **the member's or employee's** malfeasance in office  
 33 or employment.

34 (17) To prepare, make, enforce, amend, or repeal rules,  
 35 regulations, and procedures for the government and management  
 36 of the schools, property, facilities, and activities of the school  
 37 corporation, its agents, employees, and pupils and for the  
 38 operation of its governing body, which rules, regulations, and  
 39 procedures may be designated by any appropriate title such as  
 40 "policy handbook", "bylaws", or "rules and regulations".

41 (18) To ratify and approve any action taken by any member of the  
 42 governing body, any officer of the governing body, or by any

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employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-5-1 through IC 20-5-6 by specific language or by reference to other law.

SECTION 5. IC 20-5-2.7 IS ADDED TO THE INDIANA CODE AS NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 2.7. Cooperative Risk Management Programs**

**Sec. 1. As used in this chapter, "aggregate insurance coverage" means the coverage provided by an insurance contract that:**

- (1) is purchased by a cooperative program; and**
- (2) provides excess coverage if the aggregate amount of claims submitted by member school corporations and payable by the self-insurance fund exceeds the total amount of self-insured risk retained by the members in a fiscal year.**

**Sec. 2. As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2.**

**Sec. 3. As used in this chapter, "cooperative program" means a cooperative risk management program established under this chapter.**

**Sec. 4. As used in this chapter, "member" refers to a school corporation that enters into an interlocal agreement with another school corporation to establish a cooperative program.**

**Sec. 5. As used in this chapter, "self-insurance fund" means an actuarially sound fund established by a cooperative program as a reserve to cover self-insured risk retained by the members for losses covered under this chapter and to pay premiums for aggregate insurance coverage and specific insurance coverage required under this chapter.**

**Sec. 6. As used in this chapter, "specific insurance coverage"**

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means the coverage provided by one (1) or more insurance contracts that:

- (1) are purchased by a cooperative program; and
- (2) provide excess coverage for a part of a specific claim that exceeds the amount covered by the self-insurance fund.

Sec. 7. (a) Two (2) or more school corporations may enter into an interlocal agreement under IC 36-1-7 to establish a cooperative risk management program through which the school corporations agree to maintain a program of joint self-insurance to cover certain retained risks and to jointly purchase aggregate insurance coverage and specific insurance coverage, including the following:

- (1) Casualty insurance, including general and professional liability coverage and student accident insurance.
- (2) Property insurance.
- (3) Automobile insurance, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, and protection against other liability and loss associated with the ownership of motor vehicles.
- (4) Surety and fidelity insurance coverage.
- (5) Umbrella and excess insurance coverage.
- (6) Worker's compensation coverage.

(b) A cooperative program established under this chapter is a separate legal entity with the power to:

- (1) sue and be sued;
- (2) make contracts; and
- (3) hold and dispose of real and personal property.

Sec. 8. A cooperative program established under this chapter is subject to regulation by the department of insurance created by IC 27-1-1-1.

Sec. 9. (a) A cooperative program shall:

- (1) establish a self-insurance fund with an aggregate limit on the total amount of self-insured risk retained by the members in a fiscal year; and
- (2) maintain aggregate insurance coverage and specific insurance coverage.

(b) A self-insurance fund established under subsection (a) must be funded at the beginning of each fiscal year by a contribution from each member in an amount that reflects the member's share of self-insured risk and other costs of the cooperative program.

(c) Annual contributions to the self-insurance fund under subsection (b) must be:

- (1) determined using generally accepted actuarial standards;

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(2) set to fund at least one hundred percent (100%) of the self-insured risk retained by the members in a fiscal year plus the other costs of the cooperative program, including premiums for aggregate insurance coverage and specific insurance coverage; and

(3) approved by the commissioner.

Sec. 10. (a) An interlocal agreement entered into under section 7 of this chapter must:

(1) establish the cooperative program as a separate legal entity; and

(2) specify the organization, composition, and powers of the governing authority of the cooperative program as required by IC 36-1-7-3.

(b) The governing authority of the cooperative program shall adopt bylaws concerning the following:

(1) A financial plan setting forth in general terms:

(A) the types of risks covered under the cooperative program;

(B) the aggregate limit on the total amount of self-insured risk retained by the cooperative program in a fiscal year;

(C) the minimum amount of specific insurance coverage and aggregate insurance coverage that must be maintained by the cooperative program; and

(D) the procedure for determining each member's annual contribution to the self-insurance fund.

(2) A plan of management that provides for:

(A) the responsibility of the governing authority with regard to:

(i) maintaining the amount of reserves in the self-insurance fund;

(ii) disposing of surpluses; and

(iii) administering the cooperative program in the event of termination;

(B) the basis on which new members may be admitted to and existing members may leave the cooperative program, including a provision specifying that an existing member may not leave the cooperative program unless the member's departure is specifically approved by the commissioner; and

(C) other provisions necessary or desirable for the operation of the cooperative program.

(c) The following must be submitted to and approved by the

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commissioner before a cooperative program may commence operations:

- (1) The interlocal agreement described in subsection (a).
- (2) The bylaws described in subsection (b).
- (3) The form and purchase by the cooperative program of any insurance contracts, including contracts for aggregate insurance coverage and specific insurance coverage.
- (4) An accounting, based on generally accepted actuarial standards, of sufficient reserves committed before commencement of operations to pay obligations of the cooperative program.
- (5) Each coverage document form to be issued by the cooperative program.
- (6) Any other information determined necessary by the commissioner.

(d) If the commissioner does not disapprove the information submitted under subsection (c) earlier than thirty (30) days after the information is submitted, the information is considered approved.

Sec. 11. (a) A cooperative program shall have an annual audit performed by an independent certified public accounting firm according to guidelines established by the state board of accounts.

(b) Not later than one hundred eighty (180) calendar days after the close of a cooperative program's fiscal year, the cooperative program must furnish the cooperative program's members with audited financial statements certified by an independent certified public accounting firm.

(c) Copies of the audit report and certified financial statements required under this section must be provided to the commissioner and the state board of accounts not later than one hundred eighty (180) calendar days after the close of the cooperative program's fiscal year.

(d) If a cooperative program fails to have the annual audit performed as required by subsection (a), the commissioner shall cause the audit to be performed at the expense of the cooperative program.

(e) The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements required under this section may be reviewed by the commissioner.

Sec. 12. The assets of a cooperative program must be:

- (1) treated as a joint investment fund under IC 20-5-11-5; and

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(2) invested under IC 5-13-9 in the same manner as other public funds.

**Sec. 13.** Not later than sixty (60) calendar days after the beginning of a cooperative program's fiscal year, the governing authority shall submit the following to the commissioner:

(1) A copy of the bylaws adopted by the cooperative program.

(2) A copy of each coverage document form issued by the cooperative program.

(3) A copy of the insurance contracts purchased by the cooperative program, including contracts for aggregate insurance coverage and specific insurance coverage.

(4) A copy of the interlocal agreement.

**Sec. 14. (a)** If a cooperative program fails to comply with the requirements of this chapter, the commissioner shall issue a notice of noncompliance to the cooperative program.

**(b)** Not later than thirty (30) calendar days after a cooperative program receives a notice of noncompliance under subsection (a), the cooperative program shall file with the commissioner a written request for time to restore compliance and a plan to restore compliance.

**(c)** The commissioner, on receiving the written request and plan to restore compliance filed under subsection (b), may allow a period of one (1) year or less, as determined by the commissioner, during which the cooperative program may restore compliance.

**(d)** If a plan to restore compliance is:

(1) not filed under subsection (b);

(2) filed under subsection (b) and not approved by the commissioner; or

(3) filed under subsection (b) and approved by the commissioner, and at the end of the period determined by the commissioner under subsection (c) the cooperative program is not in compliance with this chapter;

the commissioner may grant additional time to comply, or the commissioner may suspend, limit, or terminate the authority of the cooperative program to do business in this state.

**(e)** A cooperative program is subject to IC 27-9.

**(f)** A cooperative program shall be considered a member insurer for purposes of IC 27-6-8.

**Sec. 15. (a)** Motor vehicle coverage provided by a cooperative program must provide the ability for a member to respond in damages for liability arising out of the ownership, maintenance, or use of a motor vehicle in amounts at least equal to the amounts

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required under IC 9-25-4.

(b) A member that participates in the motor vehicle coverage provided by a cooperative program is considered to meet the financial responsibility requirements set forth in IC 9-25-4, and an application for a certificate of self-insurance under IC 9-25-4-11 is not required.

Sec. 16. Information regarding the:

(1) portion of funds; or

(2) liability reserve;

established by a cooperative program to satisfy a specific claim or cause of action is confidential and is not subject to subpoena or order to produce, except in a supplementary or an ancillary proceeding to enforce a judgment. This section does not prohibit the commissioner from obtaining the information described in this section.

Sec. 17. The department of insurance may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 6. IC 21-2-5.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The self-insurance fund may be used to provide monies for the following purposes:

(1) the payment of any judgment rendered against the school corporation, or rendered against any officer or employee of the school corporation for which the school corporation is liable under IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

(2) the payment of any claim or settlement for which the school corporation is liable pursuant to IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);

(3) the payment of any premium, management fee, claim, or settlement for which the school corporation is liable pursuant to any federal or state statute including but not limited to payments pursuant to IC 22-3 and IC 22-4; ~~or~~

(4) the payment of any settlement or claim for which insurance coverage is permitted under IC 20-5-2-2(14); ~~or~~

**(5) the payment of a contribution to the self-insurance fund of a cooperative risk management program under IC 20-5-2.7-9.**

SECTION 7. IC 27-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This chapter applies to all kinds of direct insurance except:

(1) life, annuity, health, or disability insurance;

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- (2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;
- (3) fidelity or surety bonds, or any other bonding obligations;
- (4) credit insurance, vendors' single interest insurance, or collateral protection insurance or similar insurance with the primary purpose of protecting the interests of a creditor arising out of a creditor-debtor transaction;
- (5) warranty or service contract insurance;
- (6) title insurance;
- (7) ocean marine insurance;
- (8) a transaction between a person or an affiliate of a person and an insurer or an affiliate of an insurer that involves the transfer of investment or credit risk without a transfer of insurance risk;
- (9) insurance provided by or guaranteed by a government entity; and
- (10) insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound.

**(b) This chapter applies to coverage provided under a cooperative program established under IC 20-5-2.7. For purposes of this chapter, a cooperative program is considered to be a member insurer.**

SECTION 8. IC 27-8-5-19, AS AMENDED BY P.L.162-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

(b) A policy of group accident and sickness insurance may not be issued to a group that has a legal situs in Indiana unless it contains in substance:

- (1) the provisions described in subsection (c); or
- (2) provisions that, in the opinion of the commissioner, are:
  - (A) more favorable to the persons insured; or
  - (B) at least as favorable to the persons insured and more favorable to the policyholder;
 than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

- (1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the policy will continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy.

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The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period. A provision under this subdivision may provide that the insurer is not obligated to pay claims incurred during the grace period until the premium due is received.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon a person's ineligibility for coverage under the policy or based upon other provisions in the policy.

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy and that is not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss. An exclusion or limitation that must be specified in a provision under this

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subdivision:

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person or recommended to the person during the six (6) months before the enrollment date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of:

(i) the end of a continuous period of twelve (12) months beginning on or after the enrollment date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the enrollment date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of the following:

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

(7) If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

(A) premiums;

(B) benefits; or

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- 1 (C) both premiums and benefits;  
 2 to be made if the age of a covered person has been misstated. A  
 3 provision under this subdivision must contain a clear statement of  
 4 the method of adjustment to be used.
- 5 (8) A provision that the insurer will issue to the policyholder, for  
 6 delivery to each person insured, a certificate, **in electronic or**  
 7 **paper form**, setting forth a statement that:
- 8 (A) explains the insurance protection to which the person  
 9 insured is entitled;
- 10 (B) indicates to whom the insurance benefits are payable; and  
 11 (C) explains any family member's or dependent's coverage  
 12 under the policy.
- 13 (9) A provision stating that written notice of a claim must be  
 14 given to the insurer within twenty (20) days after the occurrence  
 15 or commencement of any loss covered by the policy, but that a  
 16 failure to give notice within the twenty (20) day period does not  
 17 invalidate or reduce any claim if it can be shown that it was not  
 18 reasonably possible to give notice within that period and that  
 19 notice was given as soon as was reasonably possible.
- 20 (10) A provision stating that:
- 21 (A) the insurer will furnish to the person making a claim, or to  
 22 the policyholder for delivery to the person making a claim,  
 23 forms usually furnished by the insurer for filing proof of loss;  
 24 and
- 25 (B) if the forms are not furnished within fifteen (15) days after  
 26 the insurer received notice of a claim, the person making the  
 27 claim will be deemed to have complied with the requirements  
 28 of the policy as to proof of loss upon submitting, within the  
 29 time fixed in the policy for filing proof of loss, written proof  
 30 covering the occurrence, character, and extent of the loss for  
 31 which the claim is made.
- 32 (11) A provision stating that:
- 33 (A) in the case of a claim for loss of time for disability, written  
 34 proof of the loss must be furnished to the insurer within ninety  
 35 (90) days after the commencement of the period for which the  
 36 insurer is liable, and that subsequent written proofs of the  
 37 continuance of the disability must be furnished to the insurer  
 38 at reasonable intervals as may be required by the insurer;
- 39 (B) in the case of a claim for any other loss, written proof of  
 40 the loss must be furnished to the insurer within ninety (90)  
 41 days after the date of the loss; and
- 42 (C) the failure to furnish proof within the time required under

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clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

(12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid in accordance with IC 27-8-5.7; and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

(13) A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars (\$5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

(14) A provision that the insurer has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

(15) A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required

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by the policy.

(16) In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

(17) If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded or mentally or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

(18) A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), (c)(8), and (c)(13) do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

(e) If any policy provision required under subsection (c) is in whole or in part inapplicable to or inconsistent with the coverage provided by an insurer under a particular form of policy, the insurer, with the

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approval of the commissioner, shall delete the provision from the policy or modify the provision in such a manner as to make it consistent with the coverage provided by the policy.

**(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which a person insured under the policy may obtain a certificate described in subsection (c)(8).**

SECTION 9. IC 27-9-1-1, AS AMENDED BY P.L.5-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

(1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.

(2) All insurers who purport to do insurance business in Indiana.

(3) All insurers who have insureds resident in Indiana.

(4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.

(5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.

(6) All title insurance companies.

(7) All health maintenance organizations under IC 27-13.

(8) All multiple employer welfare arrangements under IC 27-1-34.

(9) All limited service health maintenance organizations under IC 27-13-34.

(10) All mutual insurance holding companies under IC 27-14.

**(11) All cooperative programs established under IC 20-5-2.7.**

SECTION 10. IC 27-13-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a)** A subscriber under a group contract must receive an evidence of coverage from:

(1) the group contract holder; or

(2) the health maintenance organization.

**(b) The group contract holder or health maintenance organization may provide the evidence of coverage required under subsection (a) in electronic or paper form.**

**(c) A health maintenance organization shall include in the health maintenance organization's enrollment materials information concerning the manner in which a subscriber may obtain an evidence of coverage.**

SECTION 11. IC 27-13-34-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. **(a)** Every

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1 subscriber of a limited service health maintenance organization shall  
 2 be issued an evidence of coverage **in electronic or paper form**, which  
 3 must contain a clear and complete statement of the following:

4 (1) The limited health services to which each enrollee is entitled.

5 (2) Any limitation of the services, kinds of services, or benefits to  
 6 be provided.

7 (3) Any exclusions, including any copayment or other charges.

8 (4) Where and in what manner information is available as to  
 9 where and how services may be obtained.

10 (5) The method for resolving complaints.

11 (b) Any amendment to the evidence of coverage may be provided  
 12 to the subscriber in a separate document **in electronic or paper form**.

13 **(c) A limited service health maintenance organization shall**  
 14 **include in the limited service health maintenance organization's**  
 15 **enrollment materials information concerning the manner in which**  
 16 **a subscriber may obtain an evidence of coverage.**

17 SECTION 12. [EFFECTIVE JULY 1, 2004] IC 6-3-1-3.5, as  
 18 amended by this act, applies only to taxable years beginning after  
 19 December 31, 2004.

20 SECTION 13. [EFFECTIVE JULY 1, 2004] IC 6-3.1-25, as added  
 21 by this act, applies only to taxable years that begin after December  
 22 31, 2004.

23 SECTION 14. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 251, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 251 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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## SENATE MOTION

Madam President: I move that Senate Bill 251 be amended to read as follows:

Page 4, line 15, after "policy." insert "**The insurer will include in its enrollment materials information on how to obtain a certificate.**".

Page 7, after line 14 , begin a new paragraph and insert:

"SECTION 1. IC 27-13-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A subscriber under a group contract must receive an evidence of coverage, **which may be provided in electronic or paper form**, from:

- (1) the group contract holder; or
- (2) the health maintenance organization.

**(b) The health maintenance organization will include in its enrollment materials information on how to obtain an evidence of coverage.**

SECTION 2. IC 27-13-34-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Every subscriber of a limited service health maintenance organization shall be issued an evidence of coverage **in electronic or paper form**, which must contain a clear and complete statement of the following:

- (1) The limited health services to which each enrollee is entitled.
- (2) Any limitation of the services, kinds of services, or benefits to be provided.
- (3) Any exclusions, including any copayment or other charges.
- (4) Where and in what manner information is available as to where and how services may be obtained.
- (5) The method for resolving complaints.

(b) Any amendment to the evidence of coverage may be provided to the subscriber in a separate document **in electronic or paper form**.

**(c) The limited service health maintenance organization will include in its enrollment materials information on how to obtain evidence of coverage."**

Re-number all SECTIONS consecutively.

(Reference is to SB 251 as printed January 23, 2004.)

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 251, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.8. (a) As used in this section, "pilot project" refers to the school corporation health benefit pilot project established by the state personnel department under subsection (d).**

**(b) As used in this section, "state employee health plan" means:**

- (1) the self-insurance program established by the state personnel department under section 7(b) of this chapter; or**
- (2) a contract with a prepaid health care delivery plan entered into by the state personnel department under section 7(c) of this chapter.**

**(c) Notwithstanding any other provision of this chapter to the contrary, and notwithstanding IC 20-5-2-2(14), a school corporation may:**

- (1) apply to participate in the pilot project; and**
- (2) if chosen by the department of insurance, participate in the pilot project.**

**(d) The state personnel department, in cooperation with the department of insurance, shall develop and implement a school corporation health benefit pilot project. The pilot project:**

**(1) must enable ten (10) school corporations that:**

- (A) apply for participation in the project; and**
- (B) are chosen by the department of insurance;**

**to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan that covers active state employees and is chosen by the school corporation; and**

**(2) must be established not later than January 1, 2005.**

**(e) The pilot project must do the following:**

- (1) Specify participation requirements, including minimum participation and contribution requirements, and an application process for school corporations that wish to apply.**
- (2) Provide for the department of insurance to choose ten (10) eligible school corporations for participation in the project.**
- (3) Provide for enrollment of the active and retired employees**

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of the participating school corporations in a state employee health plan not later than June 30, 2005.

(4) Provide for coverage of the active and retired employees of the participating school corporations under the state employee health plan until a date not earlier than June 30, 2010, and not later than December 31, 2010.

(5) Require the state personnel department to provide to the legislative council in an electronic format under IC 5-14-6:

(A) an annual report not later than July 1 of each year; and

(B) a final report, including aggregate information, not later than July 1, 2011;

concerning the effect of the participation in the state employee health plan by the active and retired employees of the school corporation employees, including the effect on premium rates, costs to the state and to the school corporations, and any other information determined relevant by the legislative council.

(6) Conclude insurance coverage not later than December 31, 2010.

(f) A school corporation that participates in the pilot project under this section shall provide for payment of the premium for the coverage as provided in section 2.6 of this chapter. The state shall not pay any part of the premium for the coverage. The administrator of the state employee health plan described in subsection (b)(1) shall not pay any part of the administrative cost or other costs of the coverage.

(g) The state personnel department may adopt rules under IC 4-22-2 to implement this section.

(h) This section expires December 31, 2011.

SECTION 2. IC 6-3-1-3.5, AS AMENDED BY P.L.1-2004, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

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(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross

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income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2.1, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) for a taxable year:

(i) including any part of 2004, the amount determined under subsection (f); and

(ii) beginning after December 31, 2004, two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's

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principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

**(20) In the case of an individual who is employed by a taxpayer that claims a credit under IC 6-3.1-25-9, add the amount of the individual's eligible benefits as provided in IC 6-3.1-25-15(a).**

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined

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in Section 801 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

- (1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.
- (3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.
- (4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was

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placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(f) This subsection applies only to the extent that an individual paid property taxes in 2004 that were imposed for the March 1, 2002, assessment date or the January 15, 2003, assessment date. The maximum amount of the deduction under subsection (a)(17) is equal to the amount determined under STEP FIVE of the following formula:

STEP ONE: Determine the amount of property taxes that the taxpayer paid after December 31, 2003, in the taxable year for property taxes imposed for the March 1, 2002, assessment date and the January 15, 2003, assessment date.

STEP TWO: Determine the amount of property taxes that the taxpayer paid in the taxable year for the March 1, 2003, assessment date and the January 15, 2004, assessment date.

STEP THREE: Determine the result of the STEP ONE amount divided by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by two thousand five hundred dollars (\$2,500).

STEP FIVE: Determine the sum of the STEP THREE amount and two thousand five hundred dollars (\$2,500).

SECTION 3. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

**Chapter 25. Credit for Offering Health Benefit Plans**

**Sec. 1. This chapter applies to an employer that:**

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- (1) employs at least ten (10) full-time employees who are located in Indiana; and
- (2) does not offer coverage for health care services under a self-funded health benefit plan that complies with the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

**Sec. 2.** As used in this chapter, "eligible benefits" means, with respect to an employee of a taxpayer that claims a credit under section 9 of this chapter, the total amount of health insurance premiums withheld from the employee's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) during a taxable year under the health benefit plan offered by the employer.

**Sec. 3.** As used in this chapter, "eligible taxpayer" means a taxpayer that did not provide health insurance to the taxpayer's employees in the taxable year immediately preceding the taxable year for which the taxpayer claims a credit under this chapter.

**Sec. 4.** As used in this chapter, "full-time employee" means an employee who is normally scheduled to work at least thirty (30) hours each week.

**Sec. 5. (a)** As used in this chapter, "health benefit plan" means coverage for health care services provided under:

- (1) an insurance policy that provides one (1) or more of the types of insurance described in Class 1(b) or Class 2(a) of IC 27-1-5-1; or
- (2) a contract with a health maintenance organization for coverage of basic health care services under IC 27-13;

that satisfies the requirements of Section 125 of the Internal Revenue Code.

**(b)** The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
  - (A) may not be renewed; and
  - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement,

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without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

**Sec. 6.** As used in this chapter, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

**Sec. 7.** As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax);

(2) IC 6-5.5 (financial institutions tax); and

(3) IC 27-1-18-2 (insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

**Sec. 8.** As used in this chapter, "taxpayer" means an individual or entity that:

(1) has state tax liability; and

(2) employs at least ten (10) full-time employees who are located in Indiana.

**Sec. 9. (a)** An eligible taxpayer that, after December 31, 2004, makes health insurance available to the eligible taxpayer's employees and their dependents through at least one (1) health benefit plan is entitled to a credit against the taxpayer's state tax liability for the first two (2) taxable years in which the taxpayer makes the health benefit plan available if the following requirements are met:

(1) An employee's participation in the health benefit plan is at the employee's election.

(2) If an employee chooses to participate in the health benefit plan, the employee may pay the employee's share of the cost of the plan using a wage assignment authorized under IC 22-2-6-2.

**(b)** The credit allowed under this chapter equals the lesser of:

(1) two thousand five hundred dollars (\$2,500); or

(2) fifty dollars (\$50) multiplied by the number of employees enrolled in the health benefit plan during the taxable year.

**Sec. 10. (a)** An employer may pay or provide reimbursement for all or part of the cost of a health benefit plan made available under section 9 of this chapter.

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(b) An employer that pays or provides reimbursement under subsection (a) shall pay or provide reimbursement on an equal basis for all full-time employees who elect to participate in the health benefit plan.

Sec. 11. (a) If the amount determined under section 9 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback.

(b) A taxpayer is not entitled to a refund of any unused credit.

Sec. 12. If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must submit to the department all information that the department determines is necessary to calculate the credit provided by this chapter and to determine the taxpayer's eligibility for the credit.

Sec. 14. (a) A taxpayer claiming a credit under this chapter shall continue to make health insurance available to the taxpayer's employees through a health benefit plan for at least twenty-four (24) consecutive months beginning on the day after the last day of the taxable year in which the taxpayer first offers the health benefit plan.

(b) If the taxpayer terminates the health benefit plan before the expiration of the period required under subsection (a), the taxpayer shall repay the department the amount of the credit received under section 9 of this chapter.

Sec. 15. (a) An employee of a taxpayer that claims a credit under this chapter shall include in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) the employee's eligible benefits for:

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(1) the first taxable year in which the taxpayer offers the health benefit plan; and

(2) the taxable year immediately following the first taxable year in which the taxpayer offers the health benefit plan.

An employee's eligible benefits are not included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) for the taxable years following the taxable year described in subdivision (2).

(b) A taxpayer that claims a credit under this chapter shall notify each of the taxpayer's employees of the amount included in the employee's state adjusted gross income (as defined in IC 6-3-1-3.5(a)) under subsection (a) at the same time the taxpayer provides the employee with the employee's W-2 federal income tax withholding statement for the taxable year.

SECTION 4. IC 20-5-2-2, AS AMENDED BY P.L.286-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. In carrying out the school purposes of each school corporation, its governing body acting on its behalf shall have the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment therefor.

(2.5) To appropriate from the general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based upon the school corporation's previous year's average daily membership (as defined in IC 21-3-1.6-1.1) for the purpose of promoting the best interests of the school corporation by:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

(C) developing relations with other governmental units.

(3) To acquire, construct, erect, maintain, hold, and to contract for such construction, erection, or maintenance of such real estate, real estate improvements, or any interest in either, as the governing body deems necessary for school purposes, including

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but not limited to buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing of school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchases money contracts providing for a retention of a security interest by seller until payment is made or by notes where such contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 21-5-10, IC 21-5-11, or IC 21-5-12. To repair, remodel, remove, or demolish any such real estate, real estate improvements, or interest in either, as the governing body deems necessary for school purposes, and to contract therefor. To provide for energy conservation measures through utility energy efficiency programs or under a guaranteed energy savings contract as described in IC 36-1-12.5.

(4) To acquire such personal property or any interest therein as the governing body deems necessary for school purposes, including but not limited to buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by outright purchase for cash, or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where such contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish such personal property. All purchases and contracts delineated under the powers given under subdivision (3) and this subdivision shall be subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of agencies of the state as provided in section 3 of this chapter.

(5) To sell or exchange any of such real or personal property or interest therein, which in the opinion of the governing body is not necessary for school purposes, in accordance with IC 20-5-5, to demolish or otherwise dispose of such property if, in the opinion of the governing body, it is not necessary for school purposes and is worthless, and to pay the expenses for such demolition or disposition.

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(6) To lease any school property for a rental which the governing body deems reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children aged five (5) through fourteen (14) years that operates before or after the school day, or both, and during periods when school is not in session;

if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if the property subject to a long term lease is being paid for from money in the school corporation's debt service fund, then all proceeds from the long term lease shall be deposited in that school corporation's debt service fund so long as the property has not been paid for. The governing body may, at its option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(7) To employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including but not limited to the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and such other personnel or services, all as the governing body considers necessary for school purposes. To fix and pay the salaries and compensation of such persons and such services. To classify such persons or services and to adopt schedules of salaries or compensation. To determine the number of such persons or the amount of services thus employed or contracted for. To determine the nature and extent of their duties. The compensation, terms of employment, and discharge of teachers shall, however, be subject

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to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers shall be subject to and shall be governed by any laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of such school corporation shall be submitted to the state board of accounts for approval to the end that such services shall be used by the school corporation when the governing body determines that it is in the best interests of the school corporation while at the same time providing reasonable accountability for the funds expended.

(8) Notwithstanding the appropriation limitation in subdivision (2.5), when the governing body by resolution deems a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including but not limited to attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit such employee to be absent in connection with such trip without any loss in pay and to refund to such employee or to such member his reasonable hotel and board bills and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(9) To transport children to and from school, when in the opinion of the governing body such transportation is necessary, including but not limited to considerations for the safety of such children and without regard to the distance they live from the school, such transportation to be otherwise in accordance with the laws applicable thereto.

(10) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including but not limited to the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate such program, and the purchase of any material and supplies therefor, charging students for the operational costs of such lunch program, fixing the price per meal or per food item. To operate such lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in any surplus commodity or lunch aid program.

(11) To purchase textbooks, to furnish them without cost or to rent them to students, to participate in any textbook aid program,

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all in accordance with applicable law.

(12) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(13) To levy taxes, to make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with the laws applicable thereto. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-5-4.

(14) To purchase insurance, ~~or to~~ establish and maintain a program of self-insurance, **or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7**, relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance, ~~or to~~ establish and maintain a program of self-insurance, **or enter into an interlocal agreement with one (1) or more school corporations to establish and maintain a cooperative risk management program under IC 20-5-2.7**, protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from any liability, risk, accident, or loss related to any school property, school contract, school or school related activity, including but not limited to the purchase of insurance or the establishment and maintenance of a self-insurance program protecting such persons against false imprisonment, false arrest, libel, or slander for acts committed in the course of their employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to any property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance; to benefit school corporation employees, which may include accident, sickness, health, or dental coverage, provided that any plan of self-insurance shall include an aggregate stop-loss provision.

(15) To make all applications, to enter into all contracts, and to

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sign all documents necessary for the receipt of aid, money, or property from the state government, the federal government, or from any other source.

(16) To defend any member of the governing body or any employee of the school corporation in any suit arising out of the performance of ~~his~~ **the member's or employee's** duties for or employment with, the school corporation, provided the governing body by resolution determined that such action was taken in good faith. To save any such member or employee harmless from any liability, cost, or damage in connection therewith, including but not limited to the payment of any legal fees, except where such liability, cost, or damage is predicated on or arises out of the bad faith of such member or employee, or is a claim or judgment based on ~~his~~ **the member's or employee's** malfeasance in office or employment.

(17) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures for the government and management of the schools, property, facilities, and activities of the school corporation, its agents, employees, and pupils and for the operation of its governing body, which rules, regulations, and procedures may be designated by any appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(18) To ratify and approve any action taken by any member of the governing body, any officer of the governing body, or by any employee of the school corporation after such action is taken, if such action could have been approved in advance, and in connection therewith to pay any expense or compensation permitted under IC 20-5-1 through IC 20-5-6 or any other law.

(19) To exercise any other power and make any expenditure in carrying out its general powers and purposes provided in this chapter or in carrying out the powers delineated in this section which is reasonable from a business or educational standpoint in carrying out school purposes of the school corporation, including but not limited to the acquisition of property or the employment or contracting for services, even though such power or expenditure shall not be specifically set out herein. The specific powers set out in this section shall not be construed to limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-5-1 through IC 20-5-6 by specific language or by reference to other law.

SECTION 5. IC 20-5-2.7 IS ADDED TO THE INDIANA CODE AS NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON

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PASSAGE]:

**Chapter 2.7. Cooperative Risk Management Programs**

**Sec. 1.** As used in this chapter, "aggregate insurance coverage" means the coverage provided by an insurance contract that:

- (1) is purchased by a cooperative program; and
- (2) provides excess coverage if the aggregate amount of claims submitted by member school corporations and payable by the self-insurance fund exceeds the total amount of self-insured risk retained by the members in a fiscal year.

**Sec. 2.** As used in this chapter, "commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

**Sec. 3.** As used in this chapter, "cooperative program" means a cooperative risk management program established under this chapter.

**Sec. 4.** As used in this chapter, "member" refers to a school corporation that enters into an interlocal agreement with another school corporation to establish a cooperative program.

**Sec. 5.** As used in this chapter, "self-insurance fund" means an actuarially sound fund established by a cooperative program as a reserve to cover self-insured risk retained by the members for losses covered under this chapter and to pay premiums for aggregate insurance coverage and specific insurance coverage required under this chapter.

**Sec. 6.** As used in this chapter, "specific insurance coverage" means the coverage provided by one (1) or more insurance contracts that:

- (1) are purchased by a cooperative program; and
- (2) provide excess coverage for a part of a specific claim that exceeds the amount covered by the self-insurance fund.

**Sec. 7. (a)** Two (2) or more school corporations may enter into an interlocal agreement under IC 36-1-7 to establish a cooperative risk management program through which the school corporations agree to maintain a program of joint self-insurance to cover certain retained risks and to jointly purchase aggregate insurance coverage and specific insurance coverage, including the following:

- (1) Casualty insurance, including general and professional liability coverage and student accident insurance.
- (2) Property insurance.
- (3) Automobile insurance, including motor vehicle liability insurance coverage and security for motor vehicles owned or operated, and protection against other liability and loss associated with the ownership of motor vehicles.

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- (4) Surety and fidelity insurance coverage.
- (5) Umbrella and excess insurance coverage.
- (6) Worker's compensation coverage.

(b) A cooperative program established under this chapter is a separate legal entity with the power to:

- (1) sue and be sued;
- (2) make contracts; and
- (3) hold and dispose of real and personal property.

**Sec. 8.** A cooperative program established under this chapter is subject to regulation by the department of insurance created by IC 27-1-1-1.

**Sec. 9. (a)** A cooperative program shall:

- (1) establish a self-insurance fund with an aggregate limit on the total amount of self-insured risk retained by the members in a fiscal year; and
- (2) maintain aggregate insurance coverage and specific insurance coverage.

(b) A self-insurance fund established under subsection (a) must be funded at the beginning of each fiscal year by a contribution from each member in an amount that reflects the member's share of self-insured risk and other costs of the cooperative program.

(c) Annual contributions to the self-insurance fund under subsection (b) must be:

- (1) determined using generally accepted actuarial standards;
- (2) set to fund at least one hundred percent (100%) of the self-insured risk retained by the members in a fiscal year plus the other costs of the cooperative program, including premiums for aggregate insurance coverage and specific insurance coverage; and
- (3) approved by the commissioner.

**Sec. 10. (a)** An interlocal agreement entered into under section 7 of this chapter must:

- (1) establish the cooperative program as a separate legal entity; and
- (2) specify the organization, composition, and powers of the governing authority of the cooperative program as required by IC 36-1-7-3.

(b) The governing authority of the cooperative program shall adopt bylaws concerning the following:

- (1) A financial plan setting forth in general terms:
  - (A) the types of risks covered under the cooperative program;

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- (B) the aggregate limit on the total amount of self-insured risk retained by the cooperative program in a fiscal year;
  - (C) the minimum amount of specific insurance coverage and aggregate insurance coverage that must be maintained by the cooperative program; and
  - (D) the procedure for determining each member's annual contribution to the self-insurance fund.
- (2) A plan of management that provides for:
- (A) the responsibility of the governing authority with regard to:
    - (i) maintaining the amount of reserves in the self-insurance fund;
    - (ii) disposing of surpluses; and
    - (iii) administering the cooperative program in the event of termination;
  - (B) the basis on which new members may be admitted to and existing members may leave the cooperative program, including a provision specifying that an existing member may not leave the cooperative program unless the member's departure is specifically approved by the commissioner; and
  - (C) other provisions necessary or desirable for the operation of the cooperative program.
- (c) The following must be submitted to and approved by the commissioner before a cooperative program may commence operations:
- (1) The interlocal agreement described in subsection (a).
  - (2) The bylaws described in subsection (b).
  - (3) The form and purchase by the cooperative program of any insurance contracts, including contracts for aggregate insurance coverage and specific insurance coverage.
  - (4) An accounting, based on generally accepted actuarial standards, of sufficient reserves committed before commencement of operations to pay obligations of the cooperative program.
  - (5) Each coverage document form to be issued by the cooperative program.
  - (6) Any other information determined necessary by the commissioner.
- (d) If the commissioner does not disapprove the information submitted under subsection (c) earlier than thirty (30) days after the information is submitted, the information is considered

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approved.

**Sec. 11. (a)** A cooperative program shall have an annual audit performed by an independent certified public accounting firm according to guidelines established by the state board of accounts.

**(b)** Not later than one hundred eighty (180) calendar days after the close of a cooperative program's fiscal year, the cooperative program must furnish the cooperative program's members with audited financial statements certified by an independent certified public accounting firm.

**(c)** Copies of the audit report and certified financial statements required under this section must be provided to the commissioner and the state board of accounts not later than one hundred eighty (180) calendar days after the close of the cooperative program's fiscal year.

**(d)** If a cooperative program fails to have the annual audit performed as required by subsection (a), the commissioner shall cause the audit to be performed at the expense of the cooperative program.

**(e)** The working papers of the certified public accountant and other records pertaining to the preparation of the audited financial statements required under this section may be reviewed by the commissioner.

**Sec. 12.** The assets of a cooperative program must be:

- (1)** treated as a joint investment fund under IC 20-5-11-5; and
- (2)** invested under IC 5-13-9 in the same manner as other public funds.

**Sec. 13.** Not later than sixty (60) calendar days after the beginning of a cooperative program's fiscal year, the governing authority shall submit the following to the commissioner:

- (1)** A copy of the bylaws adopted by the cooperative program.
- (2)** A copy of each coverage document form issued by the cooperative program.
- (3)** A copy of the insurance contracts purchased by the cooperative program, including contracts for aggregate insurance coverage and specific insurance coverage.
- (4)** A copy of the interlocal agreement.

**Sec. 14. (a)** If a cooperative program fails to comply with the requirements of this chapter, the commissioner shall issue a notice of noncompliance to the cooperative program.

**(b)** Not later than thirty (30) calendar days after a cooperative program receives a notice of noncompliance under subsection (a), the cooperative program shall file with the commissioner a written

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request for time to restore compliance and a plan to restore compliance.

(c) The commissioner, on receiving the written request and plan to restore compliance filed under subsection (b), may allow a period of one (1) year or less, as determined by the commissioner, during which the cooperative program may restore compliance.

(d) If a plan to restore compliance is:

- (1) not filed under subsection (b);
- (2) filed under subsection (b) and not approved by the commissioner; or
- (3) filed under subsection (b) and approved by the commissioner, and at the end of the period determined by the commissioner under subsection (c) the cooperative program is not in compliance with this chapter;

the commissioner may grant additional time to comply, or the commissioner may suspend, limit, or terminate the authority of the cooperative program to do business in this state.

(e) A cooperative program is subject to IC 27-9.

(f) A cooperative program shall be considered a member insurer for purposes of IC 27-6-8.

Sec. 15. (a) Motor vehicle coverage provided by a cooperative program must provide the ability for a member to respond in damages for liability arising out of the ownership, maintenance, or use of a motor vehicle in amounts at least equal to the amounts required under IC 9-25-4.

(b) A member that participates in the motor vehicle coverage provided by a cooperative program is considered to meet the financial responsibility requirements set forth in IC 9-25-4, and an application for a certificate of self-insurance under IC 9-25-4-11 is not required.

Sec. 16. Information regarding the:

- (1) portion of funds; or
- (2) liability reserve;

established by a cooperative program to satisfy a specific claim or cause of action is confidential and is not subject to subpoena or order to produce, except in a supplementary or an ancillary proceeding to enforce a judgment. This section does not prohibit the commissioner from obtaining the information described in this section.

Sec. 17. The department of insurance may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 6. IC 21-2-5.6-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The self-insurance fund may be used to provide monies for the following purposes:

- (1) the payment of any judgment rendered against the school corporation, or rendered against any officer or employee of the school corporation for which the school corporation is liable under IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);
- (2) the payment of any claim or settlement for which the school corporation is liable pursuant to IC 34-13-2, IC 34-13-3, or IC 34-13-4 (or IC 34-4-16.5, IC 34-4-16.6, or IC 34-4-16.7 before their repeal);
- (3) the payment of any premium, management fee, claim, or settlement for which the school corporation is liable pursuant to any federal or state statute including but not limited to payments pursuant to IC 22-3 and IC 22-4; ~~or~~
- (4) the payment of any settlement or claim for which insurance coverage is permitted under IC 20-5-2-2(14); ~~or~~
- (5) the payment of a contribution to the self-insurance fund of a cooperative risk management program under IC 20-5-2.7-9.**

SECTION 7. IC 27-6-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** This chapter applies to all kinds of direct insurance except:

- (1) life, annuity, health, or disability insurance;
- (2) mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;
- (3) fidelity or surety bonds, or any other bonding obligations;
- (4) credit insurance, vendors' single interest insurance, or collateral protection insurance or similar insurance with the primary purpose of protecting the interests of a creditor arising out of a creditor-debtor transaction;
- (5) warranty or service contract insurance;
- (6) title insurance;
- (7) ocean marine insurance;
- (8) a transaction between a person or an affiliate of a person and an insurer or an affiliate of an insurer that involves the transfer of investment or credit risk without a transfer of insurance risk;
- (9) insurance provided by or guaranteed by a government entity; and
- (10) insurance written on a retroactive basis to cover known losses for which a claim has already been made and the claim is known to the insurer at the time the insurance is bound.

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**(b) This chapter applies to coverage provided under a cooperative program established under IC 20-5-2.7. For purposes of this chapter, a cooperative program is considered to be a member insurer."**

Page 4, line 15, delete "The insurer will include in its enrollment".

Page 4, delete line 16.

Page 7, between lines 7 and 8, begin a new paragraph and insert:

**"(f) An insurer that issues a policy described in this section shall include in the insurer's enrollment materials information concerning the manner in which a person insured under the policy may obtain a certificate described in subsection (c)(8).**

SECTION 9. IC 27-9-1-1, AS AMENDED BY P.L.5-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

- (1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.
- (2) All insurers who purport to do insurance business in Indiana.
- (3) All insurers who have insureds resident in Indiana.
- (4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.
- (5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.
- (6) All title insurance companies.
- (7) All health maintenance organizations under IC 27-13.
- (8) All multiple employer welfare arrangements under IC 27-1-34.
- (9) All limited service health maintenance organizations under IC 27-13-34.
- (10) All mutual insurance holding companies under IC 27-14.

**(11) All cooperative programs established under IC 20-5-2.7."**

Page 7, delete lines 16 through 24, begin a new paragraph and insert:

**"(c) A health maintenance organization shall include in the health maintenance organization's enrollment materials information concerning the manner in which a subscriber may obtain an evidence of coverage."**

Page 7, line 39, delete "The" and insert "A".

Page 7, line 39, delete "will" and insert "shall".

Page 7, line 40, delete "its" and insert "the limited service health maintenance organization's".

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Page 7, line 40, delete "on how to" and insert "**concerning the manner in which a subscriber may**".

Page 7, line 40, after "obtain" insert "**an**".

Page 7, after line 41, begin a new paragraph and insert:

"SECTION 12. [EFFECTIVE JULY 1, 2004] **IC 6-3-1-3.5, as amended by this act, applies only to taxable years beginning after December 31, 2004.**

SECTION 13. [EFFECTIVE JULY 1, 2004] **IC 6-3.1-25, as added by this act, applies only to taxable years that begin after December 31, 2004.**

SECTION 14. **An emergency is declared for this act.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 251 as reprinted January 28, 2004.)

FRY, Chair

Committee Vote: yeas 11, nays 3.

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